



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Public Hearing Regarding Notice of Public Nuisance and Order to Abate issued on property located at 433 East Locust Street, Lodi, California, Assessor's Parcel No. 043-201-0025

MEETING DATE: June 5, 1996

PREPARED BY: Fire Marshal

RECOMMENDED ACTION: That the City Council hear all evidence pertaining to this matter and make a determination as to the need to proceed with the Notice of Public Nuisance and Order to Abate. If there is insufficient evidence of compliance with the Fire Department's Order to Abate issued on March 23, 1996, the Council should issue an order, certified by the City Clerk, that all debris be removed from the building and premises and that the building be secured in a manner approved by the Fire Chief.

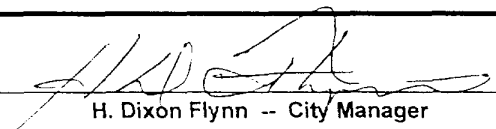
BACKGROUND INFORMATION: On September 8, 1995 a fire occurred in this 4 unit apartment building. This fire resulted in extensive damage to the carport area and attic area. As a result of this fire, the building has been uninhabitable pending repairs. On September 8, 1995, the fire department authorized an emergency board up of the premises along with the installation of a cyclone fence. The fence was removed after the 90 day contract period had expired.

On September 21, 1995, the building was released to the owner, Mr. Rick Riggle.

On March 21, 1996, an inspection of the premises was conducted by Fire Marshal Steven Raddigan. As a result of this inspection, a Notice of Public Nuisance and Order to Abate was issued by Fire Marshal Raddigan on March 23, 1996. This Notice was mailed to the legally listed property owner, Mr. Rick Riggle by certified mail with a return receipt requested. On March 23, 1996, the Notice was posted on the building.

On March 21, 1996, Fire Marshal Raddigan contacted the father of Rick Riggle. Fire Marshal Raddigan was informed that Mr. Rick Riggle was incarcerated in the San Mateo County Jail and would shortly be transferred to San Quentin to serve a 3000+ day sentence. Fire Marshal Raddigan verified this information with the San Mateo County Sheriffs Office.

APPROVED: _____


H. Dixon Flynn -- City Manager



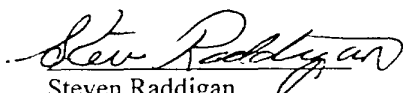
CITY OF LODI

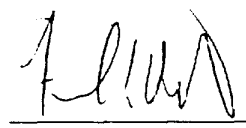
COUNCIL COMMUNICATION

On April 15, 1996, Fire Marshal Raddigan inspected the property and found that the accumulation of combustible material was still present on the premises. It was noted during this inspection that the building was secured. Contact was made with the mortgage company and information obtained confirmed that the mortgage company boarded up the property but did not remove the combustible material from within the structure.

Based on the current situation of Mr. Rick Riggle and the present condition of the building at 433 East Locust Street, there does not appear to be an immediate solution without the city taking abatement action.

Funding: Reimbursable through property tax


Steven Raddigan
Fire Marshal


Frank Ortiz
Acting Fire Chief

SR/cs

CCOM0505.96

APPROVED: _____
H. Dixon Flynn -- City Manager



CITY OF LODI

FIRE DEPARTMENT

Hank A. Howard
Fire Chief

Div. Chief Frank Ortiz
Operations

Div. Chief Steven Raddigan
Fire Marshal

217 WEST ELM STREET
LODI, CALIFORNIA 95240

ADMINISTRATION: (209) 333-6735
FIRE/LIFE SAFETY: (209) 333-6739
FAX: (209) 333-6844

Div. Chief Stan Mall
Training/Safety/P.I.O.

Batt. Chief Gary Duck
Support Services

Batt. Chief Verne Person
Resources

NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE

March 23, 1996

MR. RICK RIGGLE
1674 BORDEN ST.
SAN MATEO, CA 94403

Dear Mr. Riggle:

RE: 433 EAST LOCUST

NOTICE OF PUBLIC NUISANCE

Public records indicate that you are the current legal owner of the real and improved property in the City of Lodi, County of San Joaquin, State of California described as follows: Assessor Parcel No. 043-201-0025. Said property is more commonly known as 433 E Elm St., Lodi, California.

As the property owner, you are hereby notified that the undersigned Fire Marshal of the City of Lodi has inspected said property and declared it to be a PUBLIC NUISANCE as defined and prescribed for by Section 2.201(b) of the Fire Code of the City of Lodi.

INSPECTIONS AND VIOLATIONS

On March 20, 1996, the undersigned Fire Marshal caused said property to be inspected. The following violations were discovered:

1991 UNIFORM FIRE CODE

Sec. 2.201(b). All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance,

dilapidation, obsolescence, fire hazard, disaster damage or abandonment as specified in this code or any other effective ordinance, are, for the purpose of this section, unsafe buildings.

1994 UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS

Sec. 302. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay damage, faulty construction or arrangement, inadequate light, air sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
18. Whenever any portion of a building or structure remain on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building thereof an attractive nuisance or hazard to the public

1994 UNIFORM HOUSING CODE

Sec. 100.1 General. Any building or portion thereof which is determined to be an unsafe building in accordance with Section 102 of the Building Code; or any building or portion thereof, including any dwelling unit, guest room or suite of rooms or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health,

433 East Locust St.

March 23, 1996

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property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building.

- (1.) Fire Hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- (k) Hazardous or Unsanitary Premises. Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborage, stagnant water, combustible materials and similar materials or conditions constitute fire, health or safety hazards.

VIOLATIONS:

- 1. The building has been damaged by fire to a degree that in the present condition creates an hazard to safety, health and public welfare.
- 2. The building is unsecured creating an attractive nuisance to children and a harbor for vagrance, criminals or immoral persons.
- 3. The current condition of this building and property create a fire, health and safety hazard.
- 4. Accumulation of combustible waste material in and about the structure.
- 5. The building has been abandoned for a period in excess of six months.

DETERMINATIONS

As a result of the foregoing violations, the undersigned Fire Marshal has declared the property to be a PUBLIC NUISANCE and has therefore made the following determination:

- 1. The structure is to be demolished and all combustibles removed from the premises.
- OR
- 2.
 - a) Remove all debris from within structure.
 - b) Remove all debris from the property.
 - c) Tightly secure all openings into the structure in accordance with provisions established by H.U.D.

TIME PERIOD FOR COMPLIANCE

1. All combustible waste material shall be removed from the premises within fifteen (15) days of this Notice.
2. The building shall be secured in manner that meets or exceeds H.U.D. recommendations within twenty (20) days of this Notice.

ORDER TO ABATE

Pursuant to Section 401.3 and Section 403 of the Uniform Code for Abatement of Dangerous Buildings (1994), this Notice constitutes an **ORDER** to you, the owner of the property in question, **TO ABATE** the substandard conditions listed herein in a manner and within the time determined above. This order is based upon the following findings:

1. The building has been damaged by fire to a degree that in the present condition creates an hazard to safety, health and public welfare.
2. The building is unsecured creating an attractive nuisance to children and a harbor for vagrance, criminals or immoral persons.
3. The current condition of this building and property create a fire, health and safety hazard.
4. That conditions within and about this property prohibit the intended use for dwelling purposes
5. The building has been abandoned for a period in excess of six months.

APPEAL

Property owners, or those with legal interest in the property who are served with this Notice may appeal the same to the City Council of the City of Lodi under Section 15.28.070 of the Lodi Municipal Code. The appeal which shall be in writing shall state the substance of the order appealed from, shall be submitted to the City Council in care of the City Clerk (221 West Pine Street, Lodi, CA 95240) within ten (10) days from the date of personal service or mailing of the order which is being appealed.

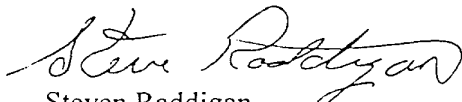
FAILURE TO COMPLY

Whenever an order to repair, vacate and repair, or demolish any building or structure, or any portion thereof, has not been complied with within the time set, whether under appeal or not, the City Council shall have the power, in addition to any other remedy herein provided, to:

433 East Locust St.
March 23, 1996
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1. Cause the material of any such building or structure to be sold in any manner that the Council may determine upon; provided, however, that any such sale shall be upon condition that the building or structure be forthwith demolished, the wreckage and debris thereof removed and the lot cleaned. The Council may sell any such building singly or otherwise. Any surplus from the sale of any such building or structure, or group of buildings and structures, over and above the cost of demolition and of cleaning the site shall be retained to be distributed to the parties or persons lawfully entitled thereto.
2. Cause the building or structure to be repaired or demolished. The cost thereof shall be assessed against the property upon which the particular building or structure is located. The repair or demolition of any building or structure, or sale of the materials thereof, shall be by a contract awarded following advertisement for bids, to the lowest and best bidder in the case of repair or demolition work and to the highest and best bidder in the case of the sale of material.

Should you require additional information, please contact this office.


Steven Raddigan
Fire Marshal

SR\cs

c: City Attorney
Community Improvement Manager
San Joaquin County Public Health Services

RESOLUTION NO. 96-60

AN ORDER OF THE LODI CITY COUNCIL
ORDERING ABATEMENT OF THE PUBLIC NUISANCE
LOCATED AT 433 EAST LOCUST STREET,
LODI, CALIFORNIA

The City Council of the City of Lodi finds that:

1. Steven W. Raddigan, Fire Marshal of the City of Lodi, did cause to be inspected the premises at 433 East Locust Street.
2. Said inspection resulted in the Fire Marshal finding that the premises is a public nuisance as defined in the Abatement of Dangerous Building Code of the City of Lodi and that hazardous conditions on the premise should be abated.
3. Said Fire Marshal caused a Notice to be prepared setting forth his findings and the corrections that were to be made in order to comply with the codes of the City of Lodi and the laws of the State of California;
4. A copy of said Notice was mailed on March 27, 1996 and that a declaration of mailing is on file with the City Clerk.
5. A declaration of Fire Marshal Raddigan that a copy of said Notice was posted on said premise on March 26, 1996 and is on file with the City Clerk.
6. More than 45 days have elapsed since the mailing and posting of said Notice and that no person has appeared to protest or object to the findings of the Fire Marshal;
7. The written testimony of the Fire Marshal and the pictures presented therewith establish that the structure located on the real property more particularly hereafter described, is unsafe and a public nuisance;
8. That the building has not been occupied and does not meet current building and housing codes that would permit occupancy;

IT IS THEREFORE ORDERED by the City Council of the City of Lodi that:

1. That the owner or other interested parties are hereby ordered and directed to remove all debris from within the structure; and
2. That the owner or other interested parties are hereby ordered and directed to remove all debris from the property; and

3. That the owner or other interested parties are hereby ordered to tightly secure all openings into the structure and garage areas in accordance with provisions established by H.U.D. or any method approved by the Fire Marshal; and
4. That the owner or other interested parties maintain the building in a manner to prevent unauthorized entry; and
5. That the owner maintain the premise in a manner that prevents the accumulation of combustible materials; and
6. Copies of this Order shall be posted on the building and served in the manner and upon the persons set forth in Section 401(c), (d) and (e) of said Unsafe Building Abatement Code; and
7. In the event that the removal of combustible waste material and the securing of the building is not completed by July 15, 1996 or that the hazardous conditions return to the property, then the Public Works Director shall cause bids to be obtained for the cost of work and the bid shall be awarded to the lowest and best bidder.

The structure herein referred to is situated on real property in the City of Lodi, County of San Joaquin, described as follows:

Lot 12 in block 47, BRIER AND KEENY'S ADDITION, in the City of Lodi, County of San Joaquin, State of California, according to the official map thereof filed for record in Vol. 3 of maps and Plats, Page 20, San Joaquin County Records. Except therefrom the northerly 60 feet thereof. A.P.N. 042-201-25

Dated: June 5, 1996


I hereby certify that Resolution No. 96-60 was passed and adopted by the Lodi City Council in a regular meeting held June 5, 1996 by the following vote:

AYES: COUNCIL MEMBERS - Davenport, Mann, Pennino, Sieglock and Warner (Mayor)

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - None

ABSTAIN: COUNCIL MEMBERS - None


JENNIFER M. PERRIN
City Clerk

96-60



DECLARATION OF MAILING

Continued Public Hearing
Public Nuisance/Order to Abate 433 E. Locust St.

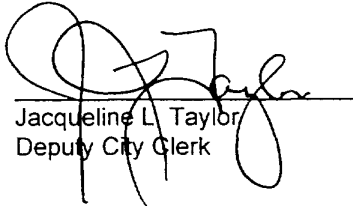
On May 16, 1996 in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 1996, at Lodi, California.

Jennifer M. Perrin
City Clerk

A handwritten signature in black ink, appearing to read "Jacqueline L. Taylor", is written over a horizontal line.

Jacqueline L. Taylor
Deputy City Clerk

Linda S. Nichols
Administrative Clerk

Mailing List

Mr. Rick Riggle
P.O. Box 79
San Gregorio, CA 94074

Mr. Rick Riggle
1674 Borden Street
San Mateo, CA 94403



CITY OF LODI
Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: June 5, 1996

Time: 7:00 p.m.

For information regarding this notice please contact:

Jennifer M. Perrin
City Clerk
Telephone: (209) 333-6702

NOTICE OF CONTINUED PUBLIC HEARING

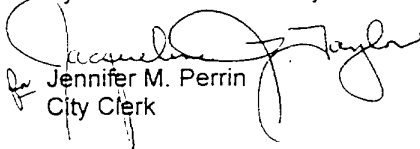
NOTICE IS HEREBY GIVEN that on **Wednesday, June 5, 1996**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a continued Public Hearing to consider the following matter:

- a) Notice of Public Nuisance and Order to Abate issued on property located at 433 East Locust Street (APN 043-201-0025)

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

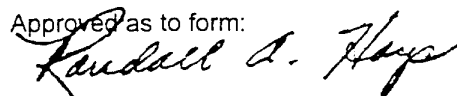
If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, P.O. Box 3006, at or prior to the Public Hearing.

By Order of the Lodi City Council:


Jennifer M. Perrin
City Clerk

Dated: May 15, 1996

Approved as to form:


Randall A. Hays
City Attorney